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Office of
The City Attorney
City of San Diego

MEMORANDUM
MS 59

(619) 533-5800

DATE: January 9, 2009
TO: Sabrina Curtin, Docket Coordinator
FROM: Andrew Jones, Assistant Deputy City Attorney
SUBJECT: *Personal Injury Claim of Bun Bun Tran*

Attached please find Resolution R-2009-770 setting forth the approval of the City Council in Closed Session on October 7, 2008. The vote taken in Open Session shall be the official vote.

Pursuant to the requirements, it is appropriate for this Resolution to be placed on the next available Council docket for Council adoption confirming the Council's action in Closed Session. It is therefore requested that it be calendared for the next available docket.

Please note that this matter is currently scheduled for closed session (information only) on January 20, 2008, so if possible to get this on Open Session January 27, 2009, that would be greatly appreciated.

Attachment

REQUEST FOR COUNCIL ACTION CITY OF SAN DIEGO				CERTIFICATE NUMBER (FOR AUDITOR'S USE ONLY) AC 2900502		
TO: CITY COUNCIL		FROM (ORIGINATING DEPARTMENT): City Attorney		DATE: 12/05/2008		
SUBJECT: SETTLEMENT OF PERSONAL INJURY CLAIM OF BUN BUN TRAN RISK MANAGEMENT FILE #: LX07-0549-1469						
PRIMARY CONTACT (NAME, PHONE): Andrew Jones, 533-5880				SECONDARY CONTACT (NAME, PHONE): Shelley Carter, 533-5869		
COMPLETE FOR ACCOUNTING PURPOSES						
FUND	81140					
DEPT.	81140					
ORGANIZATION	3501					
OBJECT ACCOUNT	4823					
JOB ORDER	081141					
C.I.P. NUMBER						
AMOUNT	\$1,000,000.00	0.00	0.00	0.00	0.00	0.00
FUND						
DEPT.						
ORGANIZATION						
OBJECT ACCOUNT						
JOB ORDER						
C.I.P. NUMBER						
AMOUNT	0.00	0.00	0.00	0.00	0.00	0.00
COST SUMMARY (IF APPLICABLE): \$1,000,000 Total Settlement						
ROUTING AND APPROVALS						
CONTRIBUTORS/REVIEWERS:		APPROVING AUTHORITY		APPROVAL SIGNATURE		DATE SIGNED
Risk Management		ORIG DEPT.		Bellows, Christina		12/16/2008
Liaison Office		CFO				
Financial Management		DEPUTY CHIEF		Bellows, Christina		1/7/2009
Comptroller		COO				
		CITY ATTORNEY		Jones, Andrew		1/9/2009
		COUNCIL PRESIDENTS OFFICE		Halsey, Keely		1/15/2009
PREPARATION OF:		<input checked="" type="checkbox"/> RESOLUTIONS		<input type="checkbox"/> ORDINANCE(S)		<input type="checkbox"/> AGREEMENT(S) <input type="checkbox"/> DEED(S)
1. Authorizing the Mayor to pay the sum of \$1,000,000 in settlement of each and every claim against the City of San Diego, their agents and employees resulting from the personal injury claim of Bun Bun Tran, an individual by and through Guardian ad Litem, Le Thi Nguyen, San Diego Superior Court Case No. 37-2007-00065432-CU-PA-CTL. 2. Authorizing the comptroller to issue one check in the sum of \$1,000,000 made payable to Bun Bun Tran, by and through his Guardian ad Litem, Le Thi Nguyen and his attorney of record, Angelo & DiMonda. 3. Authorizing the expenditure of \$1,000,000 from the Public Liability Fund number 81140.						

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STAFF RECOMMENDATIONS:

Approve the resolution.

SPECIAL CONDITIONS (REFER TO A.R. 3.20 FOR INFORMATION ON COMPLETING THIS SECTION)

COUNCIL DISTRICT(S):

3

COMMUNITY AREA(S):

NONE

ENVIRONMENTAL IMPACT:

THIS ACTIVITY IS NOT A PROJECT AND THEREFORE EXEMPT
FROM CEQA PURSUANT TO STATE GUIDELINES SECTION 15060
(C)(3).

CITY CLERK INSTRUCTIONS:

Please send an executed copy of the final resolution to Janice Ellis at MS-
51B.

**COUNCIL ACTION
EXECUTIVE SUMMARY SHEET
CITY OF SAN DIEGO**

DATE: 12/05/2008

ORIGINATING DEPARTMENT: City Attorney

SUBJECT: SETTLEMENT OF PERSONAL INJURY CLAIM OF BUN BUN TRAN

RISK MANAGEMENT FILE #: LX07-0549-1469

COUNCIL DISTRICT(S): 3

CONTACT/PHONE NUMBER: Andrew Jones/533-5880

REQUESTED ACTION:

Authorize the Mayor to pay the sum of \$1,000,000.00 in settlement of each and every claim against the City of San Diego, their agents and employees resulting from the personal injury claim of Bun Bun Tran.

STAFF RECOMMENDATION:

Approve the resolution.

EXECUTIVE SUMMARY OF ITEM BACKGROUND:

The proposed settlement would resolve all claims brought by Bun Bun Tran.

FISCAL CONSIDERATIONS:

Settlement will be paid from the Public Liability Fund 81140.

EQUAL OPPORTUNITY CONTRACTING INFORMATION (IF APPLICABLE):

N/A

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The item was considered in closed session on October 7, 2008. The Council approved the settlement amount of \$1,000,000. The motion passed 6 to 1 with Council President Pro Tem Madaffer voting no and Councilmember Young absent. The motion was made by Councilmember Maienschein and the second by Council President Peters.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

N/A

Bellows, Christina

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Originating Department

Bellows, Christina

Deputy Chief/Chief Operating Officer

**The City of San Diego
CERTIFICATE OF CITY AUDITOR AND COMPTROLLER**

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CERTIFICATE OF UNALLOTTED BALANCE

ORIGINATING

AC 2900502

DEPT. NO.: 045

I HEREBY CERTIFY that the money required for the allotment of funds for the purpose set forth in the foregoing resolution is available in the Treasury, or is anticipated to come into the Treasury, and is otherwise unallotted.

Amount: _____ Fund: _____

Purpose: _____

Date: _____ By: _____

AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA											
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/	EQUIP	FACILITY	AMOUNT
TOTAL AMOUNT											

FUND OVERRIDE ☐

CERTIFICATION OF UNENCUMBERED BALANCE

I HEREBY CERTIFY that the indebtedness and obligation to be incurred by the contract or agreement authorized by the hereto attached resolution, can be incurred without the violation of any of the provisions of the Charter of the City of San Diego; and I do hereby further certify, in conformity with the requirements of the Charter of the City of San Diego, that sufficient moneys have been appropriated for the purpose of said contract, that sufficient moneys to meet the obligations of said contract are actually in the Treasury, or are anticipated to come into the Treasury, to the credit of the appropriation from which the same are to be drawn, and that the said money now actually in the Treasury, together with the moneys anticipated to come into the Treasury, to the credit of said appropriation, are otherwise unencumbered.

Not to Exceed: \$1,000,000.00

Vendor: Bun Bun Tran, by and through his Guardian ad Litem, Le Thi Nguyen and his Attorney of Record, Angelo & DiMonda

Purpose: Authorize the Mayor to pay the sum of \$1,000,000.00 in settlement of each and every claim against the City, its agents and employees, resulting from the personal injury claim of Bun Bun Tran, an individual by and through Guardian ad Litem, Le Thi Nguyen. Authorize the City Comptroller to issue one check to the above stated vendor from the Public Liability Fund (81140).

Date: January 7, 2009

By: *Pam Hall* 1/7/09
AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA											
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/	EQUIP	FACILITY	AMOUNT
001	0	81140	81140	3501	4823	081141					\$1,000,000.00
TOTAL AMOUNT											\$1,000,000.00

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RESOLUTION NUMBER R-_____

DATE OF FINAL PASSAGE _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO AUTHORIZING THE SETTLEMENT
AGREEMENT BETWEEN BUN BUN TRAN AND THE CITY
OF SAN DIEGO, THEIR AGENTS AND EMPLOYEES, IN THE
SUM OF ONE MILLION DOLLARS

WHEREAS, in Closed Session on October 7, 2008, by motion of Councilmember Brian Maienschein and seconded by Council President Scott Peters, the City Council voting 6 to 1, with Councilmember Jim Madaffer voting no and Councilmember Tony Young absent, approved the following motion:

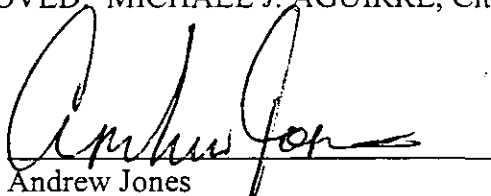
To approve the settlement of each and every claim against the City of San Diego, their agents and employees resulting from the personal injury claim of Bun Bun Tran, San Diego Superior Court Case No. 37-2007-00065432-CU-PA-CTL.

BE IT RESOLVED, that the City Comptroller be and is hereby authorized to issue a check in the amount of, but not exceeding, \$1,000,000 made payable to Bun Bun Tran, by and through his Guardian ad Litem, Le Thi Nguyen and his attorney of record, Angelo & DiMonda, in full and final settlement of all claims.

BE IT FURTHER RESOLVED, that the City Council is hereby authorized to pay the sum of \$1,000,000 from the Public Liability Fund 81140.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By


Andrew Jones
Assistant Deputy City Attorney

AJ:slc

1/8/2009

Or.Dept: City Attorney

AC 2900502

R-2009-770

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of _____.

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor